GOVERNMENT OF INDIA
COMMUNICATIONS
LOK SABHA

UNSTARRED QUESTION NO:4537
ANSWERED ON:19.12.2001
POLICY OF FOREIGN INVESTMENT IN COMMUNICATION
DR. KIRIT SOMAIYA;NAGMANI

Will the Minister of COMMUNICATIONS be pleased to state:

(a) whether Industrial Policy Department has guidelines for FDI Cap of 49% for particular type of industry;

(b) if so, whether there is a ceiling of 49% FDI in Telecommunication Sector;

(c) if so, the FDI Cap guidelines for financial institution/NBFC/Banking and Insurance Sectors;

(d) whether some loophole have been found to increase the voting power and getting management control by Companies Act;

(e) if so, whether by implementing the provisions of Companies Act regarding voting rights for non-payment of dividend of preferential shares this 49% Cap can be increased to 51% and more;

(f) if so, the details thereof with the reaction of Government thereto;

(g) the steps taken by Government against foreign/Indian companies for misusing such provision; and
(h) the action taken by Government to pluck such loopholes?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF COMMUNICATIONS (SHRI TAPAN SIKDAR)

(a) & (b): Yes, Sir. Foreign equity participation in basic, cellular, global mobile personal communications services and certain value added services cannot exceed 49%.

(c) In the financial sector, there is a 49% cap in private sector banking and 26% cap on foreign investment in the Insurance sector. As regards the Non-Banking Financial Companies (NFBC) sector, while there is no FDI cap on the extent of foreign ownership, there are minimum capitalization norms, which are to be met. For 100% FDI in NBFC sector, minimum capitalization is US$ 50 million.

(d) to (h): As per present guidelines of the Government and license conditions for operation of telecom services where foreign direct investment is limited to 49%, management control must rest with the Indian shareholders.

Under the Companies Act, the holders of non-convertible preferential shares gain voting rights equivalent to the number of preferential shares held, if dividend is not paid for a period not less than two years. It has been reported that some of the foreign promoters of Indian companies are trying to acquire voting rights, as they are holding non-convertible preference shares and have not been paid dividend by the company for two years.

The Government is aware of above position and shall take appropriate action to plug the loopholes, if any.